IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 844 of 2001

For Approval and Signature:
HONOURABLE MR.JUSTICE A.M.KAPADIA

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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GOVINDBHAI VALABHAI MAKWANA - Appellant

Versus

STATE OF GUJARAT - Opponent

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Appearance :

MR MH BAREJIA for Appellant.
MR KT DAVE, APP for Opponent.
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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

and

HONOURABLE MR.JUSTICE K.A.PUJ

Date : 4/12/2006

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE K.A.PUJ)

1. The appellant – original accused No. 1 has filed this appeal under Section 374 of the Criminal Procedure Code against the judgment and order dated 12.09.2001 passed by the learned Sessions Judge, Rajkot convicting the appellant for the charge of offence punishable under Section 304 Part-I of the Indian Penal Code and sentencing him for R.I. of 10 years with fine of Rs.5,000/- and in default thereof, to suffer S.I. for a period of one year. The learned Sessions Judge has also observed in his order that sentence imposed by the Court shall not be subject to remission or computation as provided under

Section 432 & 433 of the Code of Criminal Procedure. The original accused No. 2 was acquitted from the charges levelled against him and he was ordered to be released forthwith if his presence was not required in any other case.

2. The case of the prosecution as revealed in the FIR and as unfolded during the course of trial and as recorded by the learned Sessions Judge is as under :-

3. It is the case of the prosecution that at about 19.00 hours of the evening on fateful day, P.W. No. 2 Ambaben, P.W. No. 3 Maluben Hamirbhai along with deceased Rajesh were taking water at the water tap in village Sardhar. Rahul Muljibhai who happens to be son of her elder brother Muljibhai, came there and informed his mother Maluben that accused No. 1 Govind was causing abuses to his mother and accordingly, Maluben and deceased Rajesh went to the house of Muljibhai where she found that accused No. 1 Govind and accused No. 2 Dilip, who is son of

accused No. 1 were causing abuses and were using offensive language to her sister-in-law, mother and brother Rajesh. Since the situation was tense and in order to normalize the situation, Mansukh was called upon by Rahul and accordingly, Mansukhbhai came there, he made attempts to calm down the accused persons. It is further case of the prosecution that when Mansukhbhai was persuading the accused persons and was advising them not to flow offensive and indecent language, accused persons excited and entered their house and came again duly armed with iron rod, sword and knife and inflicted injury to P.W. No. 2, P.W. No. 3, P.W. No. 4 and also to deceased Rajesh.

4. It is also the case of the prosecution that accused No. 1 Govindbhai was duly armed with iron rod and swords, who inflicted injury to Ambaben at her head and also to Jamnaben. Accused No. 2 Dilip Govind and deceased Rajesh were available and accused No. 1 Govind took away the knife by snatching from

accused No. 2 Dilip and inflicted injuries to deceased Rajesh as a result of which, he fell down on the earth. P.W. Nos. 2,3 & 4 raised an alarm which invoked the attention of the inhabitants of the locality and, therefore, the accused persons ran away from the place of incident by leaving behind their weapons at the place of incident. Deceased Rajesh was removed to the hospital where he was declared as dead.

5. As per the case of the prosecution, dead body of the Rajesh was forwarded by Investigating Agency for conducting postmortem and to find out cause of death. P.W. No. 1 Jitendrabhai Jivrambhai Joshi, Medical Officer, Government Hospital, Rajkot conducted autopsy of the dead body of the deceased and found in all seven injuries on the person of the deceased. He prepared postmortem report Exh. 11 and concluded that deceased Rajesh had died due to hemorrhagic shock due to injuries to the vital organ heart and liver.

6. P.W. No. 2 Ambaben Vajubhai has lodged FIR at Exh.13. The Investigating Officer P.W. 5 - Parbatsinh Magansinh Chavda Exh. 44 took up the investigation, conducted inquest panchnama of the dead body of the deceased Rajesh Exh. 45, forwarded the incriminating articles to F.S.L. For chemical analysis, arrested the accused persons, who discovered the incriminating article No. 3 & 18, also seized sword from the place of incident.

7. After having sufficient evidence on record, P.W.-5 Parbatsinh Magansinh Chavda, PSI, Exh. 44 submitted report under Section 173 of the Code of Criminal Procedure against both the present accused persons with a proposal to try them for the substantive offence under Section 302 of the Indian Penal Code along with other offences before the learned Court of Judicial Magistrate First Class, Jasdan who committed the case to the Court of Sessions, Rajkot as it is exclusively triable by the

Court of Sessions.

8. The Sessions Court, Rajkot after having received the record, registered the case as Sessions Case No. 36 of 2001, read over the charge and explained to the accused. The accused have not pleaded guilty to the said charge. Hence, they were put to trial and tried by the learned Sessions Judge, Rajkot in Sessions Case No. 36 of 2001.

9. To prove the culpability of the accused, prosecution has in all examined as many as 5 witnesses, details of which are as under :-

Sr. No.	Particulars	Exh. No.
01.	P.W. 1 – Dr. Jitendrabhai J. Joshi, Medical Officer, General Hospital, Rajkot.	09.
02.	P.W. 2 - Ambaben Vajubhai, Complainant.	12.
03.	P.W. 3 – Maluben Hamirbhai.	14.
04.	P.W. 4 - Jamnaben Muljibhai	15.
05.	P.W. 5 – Parbatsinh Magansinh Chavda,	44.

Sr. No.	Particulars	Exh. No.
	PSI, Tal. Police Station.	

10. Prosecution has also produced several documents and relied upon the contents of the same, details of which are as under :-

Sr. No.	Type of evidence	Exh. No.
01.	FIR.	13.
02.	Letter written by PSI, Taluka Police Station, Rajkot to Medical Officer, Government Hospital, Rajkot sent alongwith dead body of the deceased for postmortem examination.	10.
03.	Postmortem report.	Mark B
04.	Postmortem notes.	11.
05.	Yadi to PSI by ASI informing about death of the deceased.	16.
06.	Report about registering the offence, sent to PSO, Taluka Police Station.	17.
07.	Special report of serious offence.	18.
08.	Yadi for recording Dying Declaration.	19.
09.	Message sent by PSI Rajkot Taluka Police Station to PSI about injuries to	20.

Sr. No.	Type of evidence	Exh. No.
	Jamnaben.	
10.	Letter to Medical Officer by PSI about P.M.	21.
11.	Inquest Panchnama.	22.
12.	Panchnama of scene of offence.	24.
13.	Panchnama of condition of body of Maluben.	25.
14.	Recovery panchnama of cloths of deceased.	26.
15.	Receipt of dead body.	27.
16.	Arrest panchnama	28.
17.	Letter to the Medical Officer for medical check up of the accused.	30.
18.	Letter to the Medical Officer to take blood samples of accused.	31.
19.	Injury certificate of accused Govind Vala.	32.
20.	Injury certificate of accused Dilip Govind.	33.
21.	Station Diary entry.	34.
22.	Station Diary entry.	35.
23.	Notification.	36.
24.	Yadi to obtain injury certificates of Maluben.	37.
25.	Yadi to take blood sample of Maluben.	38.
26.	Yadi sending blood samples	39.
27.	Inquest panchnama	45.
28.	Report of Chemical Analyser	46.
29.	Discovery panchnama.	47.

11.After recording of the evidence of the prosecution

witnesses was over, the learned Sessions Judge, Rajkot explained the accused the circumstances appearing against them in the evidence of the prosecution witnesses and recorded their further statement, as required under Section 313 of the Code. In their further statement, the accused denied the case of the prosecution by reiterating that they have been falsely implicated.

12. On appreciation, evaluation, analysis and close scrutiny of the evidence adduced by the prosecution, the learned Sessions Judge, Rajkot has held that the prosecution has established beyond reasonable doubt that the charge levelled against the accused No. 1 was proved and, therefore, the accused No. 1 was held guilty of the offence punishable under Section 304 Part I of IPC. The learned Sessions Judge, Rajkot has, however, acquitted the accused No. 2 from the charge levelled against him. Thereafter, the learned Sessions Judge, Rajkot heard the accused and his advocate on sentence and

looking to the gravity of the offence committed by the accused and looking to the circumstances, convicted the appellant – accused No. 1 for the charge of offence punishable under Section 304 Part-I of the Indian Penal Code and sentencing him to R.I. of 10 years with fine of Rs.5,000/- and in default thereof, to suffer S.I. For a period of one year. The learned Sessions Judge has also observed in his order that sentence imposed by the Court shall not be subject to remission or comutation as provided under Section 432 & 433 of the Code of Criminal Procedure.

13. Mr. M.H. Barejia, learned advocate appearing for the appellant - original accused No. 1 has submitted that the learned Sessions Judge has committed an error apparent on the face of the record by convicting the appellant – accused No. 1 for the offence punishable under Section 304 Part I of IPC. The learned Sessions Judge has misdirected himself in appreciating the evidence placed on record. The

learned Sessions Judge has recorded the findings which are based on the evidences placed on record. He has further submitted that the witnesses of the scene of offences were near relatives of the deceased and since they were interested, they ought not to have been believed and as such, conviction based on such evidence deserves to be vitiated. He has further submitted that the evidence of P.W. 1 – Dr. Jitendra Joshi even if accepted as true and genuine, even then the accused No. 1 could not be held guilty for the death of deceased Rajesh. The evidence of P.W. 2, 3 & 4 is not found truthful and consistent and there are vital and various basic infirmities, exaggerations and inconsistencies which had ultimately resulted into vital contradictions and hence, the conviction of the appellant – accused No.1 deserves to be vitiated. The evidence recorded in the Court and particularly statements made in examination-in-chief by the alleged eye-witnesses are quite contradictory to their true versions before the police and their earlier statements recorded under

Section 161 of Code and hence, there was a major flow in the case of the prosecution which ought to have resulted in acquittal of the appellant – accused No.1. He has further submitted that the version given in the FIR Exh. 13 is incomplete and not truthful looking to the evidence of the prosecution. Hence, the trial was vitiated. The local police has not made truthful investigation as to the alleged crime and with bias notion and prejudice, the investigation to the crime was made only to see that the appellant – accused No. 1 of the said crime was convicted in any event and at any cost and as such, the conviction of the accused No. 1 requires to be quashed and set aside. There is no authentic, reliable and truthful evidence qua inquest panchnama Exh. 45, place of incident Exh. 24, Panchnama as to physical condition of the witnesses Madhuben and Jamnaben and panchnama as to clothes of the deceased victim Exh. 26, discovery panchnama Exh. 47, medical certificates as to injuries to the appellant – accused Exh. 36 and

medical certificates of injuries as to other co-accused Dilip Govind Exh. 33 and in these facts and circumstances, the conviction of the appellant – accused No. 1 requires to be quashed and set aside. He has lastly submitted that the FSL report for the seized materials containing blood and muddamal articles is not conclusive and truthful and hence, the same cannot be construed as an incriminating circumstance in favour of the prosecution. Since FSL Officer has not been examined in the Court in such a crucial case the prosecution cannot avail the benefit of Section 293 of the Code.

14. Alternatively, Mr. Barejia has submitted that if this Court is not inclined to give a clean chit to the appellant – accused No. 1, in that case, the sentence awarded by the learned Sessions Judge for R.I. of 10 years may suitably be reduced on the basis of the findings recorded and evidence appreciated by him.

15. Mr. K.T. Dave, learned Additional Public Prosecutor

appearing for the respondent – State of Gujarat, on the other hand, has supported the order of the learned Sessions Judge and submitted that the finding arrived at and conclusion drawn by the learned Sessions Judge is based on true and correct appreciation of the facts found on record and no interference is called for while exercising the appellate jurisdiction under Section 374 of the Code. No case is made out by the appellant – accused No. 1 to take out any different view in the matter. The prosecution has succeeded in proving the case beyond reasonable doubt against the appellant – accused No. 1. He has placed heavy reliance on the evidence of P.W. No. 1 – Dr. Jitendra Joshi Exh. 09 and has submitted that by the evidence of the P.W. 1, nature of the death of deceased Rajesh is established as homicidal death beyond reasonable doubt and this fact cannot be assailed on any ground. The evidence of P.W. 2 – Ambaben, P.W. 3 – Maluben and P.W. 4 – Jamnaben is lending support to the case of the prosecution by all corners. The

evidence of all these witnesses is found to be consistent with the case of the prosecution. All these three eye-witnesses are the eye-witnesses to the incident and they have witnessed the injuries caused to the person of the deceased Rajesh by the accused. Even with regard to the alternative submission of Mr. Barejia with regard to reduction of sentence, Mr. Dave has submitted that looking to the henious crime committed by the appellant, which has resulted into death of deceased Rajesh, the sentence awarded to the appellant – accused No. 1 is in no way disproportionate to the crime committed by him and hence, no indulgence is required to be shown by this Court. He has, therefore, submitted that the appeal deserves to be dismissed.

16. We have considered the submissions advanced by learned advocates appearing for the respective parties at length. We have also undertaken a complete and comprehensive exercise of all vital features of the case and the entire evidence on

record with reference to broad and reasonable probabilities of the case. We have also gone through the entire testimonial collections. In order to find out whether the prosecution has established charge against the appellant – accused No. 1 beyond reasonable doubt and whether the learned Sessions Judge has recorded a just and correct conclusion holding the appellant – accused No. 1 guilty and whether he has awarded just and appropriate sentence, we may first advert to the oral evidence led by prosecution.

17. The prosecution has heavily relied upon the evidence of P.W. 1 – Dr. Jitendrabhai J. Joshi Exh. 9 coupled with the post mortem notes Exh. 11, oral testimony of P.W. Nos. 2,3 & 4 who claimed themselves to be eye-witnesses to the occurrence of the crime. Dr. Joshi had an occasion to receive the dead body of deceased Rajesh on 21.11.2000 for the purpose of conducting autopsy and to find out cause of death. He has conducted the postmortem and

submitted his report at Exh. 11 and while conducting the dissection of the body and observation of the body of the deceased, following external injuries were noticed :-

"Injury :-

(1) Incised wound in front of chest 1.0 cm. 0.3 cm, vertical in direction 15 cm. Below upper border of sternum upto bone muscle deep on sternum.

(2) Incised wound in front of chest on left frontal border of starnum of size 2 cm x .7 cm. This would was inside slightly oblique in direction, upper margin is sharp inside muscles were seen. Cutting intercoastal muscles going deep into the chamber of heart, there was a cut mark of the size of 2 cm x 1 cm.

(3) Stab wound over epigastic region of abdomen below sternum bone about 3 cm. and somewhat towards left side about 3 cm. of the size of 2 cm. X .7 cm eliptical in shape wound going downward on left lobe of liver.

(4) Stab wound below 3rd wound on slightly left to midclavical line oblique in direction on chest cutting intracostal muscles going over greater curveture panitrating the stomach caivity deep of the size of 3 cm. X .5 cm.

(5) Incised wound over right side between 3rd and 4th wound later edge of wound is slightly more from medical edge transverse in direction of the size of 5 cm. X 1 c.m. Skin deep below the border of shoulder near ribs."

18. After conducting postmortem, he has come to the conclusion that the deceased Rajesh died on account of injuries caused to the vital organs of the body i.e. heart and liver in violent activity. During the course of examination-in-chief, witness has been shown incriminating article No. 3 and 18 for showing possibility of causing injuries to this incident and he has given his answer in affirmative and deposed that the injuries caused to the deceased could be caused by instruments of articles No. 3 & 18. Even the inquest panchnama Exh. 45 also supports the case of the prosecution wherein similar injuries have been noticed by the panchas and inquest panchnama was drawn. Dr. Joshi has further testified in his deposition that injuries to the deceased are responsible for causing death of the deceased and the injuries were anti mortem in nature and were sufficient to cause his death in ordinary course of nature. In order to establish the guilt of the accused, prosecution has relied upon the evidence of P.W. 2 – Ambaben Vajubhai Exh. 12 who has lodged FIR Exh.

13 and has claimed herself as an eye-witness to the incident. The evidence of P.W. 3 – Maluben Hamirbhai Exh. 14 and P.W. 4 – Jamnaben Muljibhai Exh. 15 also corroborate her evidence. The learned Sessions Judge has discussed all these evidences thread-bare and come to the right conclusion that the death of the deceased Rajesh was because of the injuries inflicted upon him by the accused persons. All these three witnesses have involved the accused No. 1 and their evidence was not inconsistent with the prosecution story as regards the involvement of the accused No. 1. We are, therefore, of the view that the learned Sessions Judge was right in his finding that the appellant – accused No. 1 was guilty of committing an offence under Section 304 Part I of IPC.

19. We now consider the alternative submission of Mr. Barejia as to whether the sentence of R.I. Of 10 years awarded to the appellant – accused No. 1 is just and proper. In this connection, we take note of

the fact that the learned Sessions Judge has himself observed in his judgment under challenge that close scrutiny of the entire evidence revealed that the incident has occurred on account of sudden provocation and anger of accused No.1. It is not the case of the prosecution that the accused No. 1 has committed an offence after due deliberation or after having pre-meeting of mind. There are many contradictions, infirmities and inconsistencies in the evidence led by the prosecution. It has also come on record that the accused including the accused No. 1 were also injured. All these things put together undoubtedly leads the Court to believe that when the appellant – accused No. 1 is held guilty for the charge of offence under Section 304 – Part I of IPC, it is not just and proper to impose sentence of R.I. of 10 years. In the case of Rajsingh vs. State of Hariyana, 1993 Cr.L.J. 2939 (P & H) in a sudden pre-meditated fight between two groups, death of one person was caused and members of both the sides caused injuries to each other. It was found that the

accused had no intention to cause death to the victim and the case was covered by Exception-(4) of Section 300. The conviction of the accused was altered from under Section 302 to Part I of Section 304. In the case of Kamal Singh V/s. State of M.P., AIR 1994 S.C. 463, a sudden quarrel arose because in-laws were trying to take away the daughter-in-law who was unwilling to go and the accused inflicted a fatal knife wound. His conviction under Section 304-I was confirmed but in view of the sudden quarrel, and its cause, six years R.I. was reduced to 4 years. It is not always the case when the accused is convicted under Section 304 Part I that the sentence of R.I. of 10 years should be awarded. It always depends upon the facts and circumstances of each case and if the circumstances so warrant, the sentence may suitably be awarded. Considering the facts and circumstances of the present case, we are of the view that the sentence awarded by the learned Sessions Judge is disproportionate to the guilt of the appellant – accused and awarding of sentence of R.I

of 10 years is not just and proper. The ends of justice would better be served if the sentence is reduced from 10 years to 07 years. Accordingly, we modify the order of the learned Sessions Judge by reducing the sentence of R.I. of 10 years to 7 years with fine of Rs. 5,000/- and in default thereof, to undergo S.I. of six months instead of one year.

20. We further take note of the fact that the learned Sessions Judge while imposing the sentence has observed that the sentence imposed by the Court shall not be subject to remission or computation as provided under Section 432 & 433 of the Code of Criminal Procedure. In our view, these observations are absolutely uncalled for and do not germane from the facts of the case and the learned Sessions Judge has exceeded his jurisdiction to this extent. Section 432 deals with power to suspend or remit sentence and Section 433 deals with power to commute sentence. In both these sections, the powers are conferred on the appropriate Government. Both

these sections have come up for consideration before the Bombay High Court in the case of **Madhav Shankar Sonawane V/s. State of Maharashtra, 1982 CRI. L. J. 1762** wherein it is held that the only power which a Court can exercise while making order of sentence is to make an order awarding such punishment as is prescribed for the offence for which the accused has been convicted. So far as S. 302 IPC is concerned, the power of the Court is to award a sentence of death or to award the punishment of imprisonment for life. There is no further power to regulate the duration of the imprisonment which the accused must undergo when he is sentenced to life imprisonment. If imprisonment for life has been construed as imprisonment for rest of the life, then the sentence which the accused is required to undergo will be imprisonment for the rest of his life. This is subject only to the powers of the appropriate Government under Ss. 432 & 433 of Code under which the appropriate Government alone can commute or

remit the sentence awarded by the Court. The Parliament in its wisdom has sought to restrict that power in the case of a life sentence by the addition of a new provision in S. 433A of the Criminal P.C. The effect of which is that even though the appropriate Government wants to exercise its powers of commuting the sentence or remitting the sentence, in the case of a life convict, the sentence which the accused must undergo is imprisonment for a minimum period of 14 years before he is released. Any direction which will require an accused to undergo such imprisonment as will be specified by a Court, if it is more than 14 years, is bound to trench upon the powers of the Executive specifically bestowed upon it under Ss. 432 & 433 Criminal P.C. If in a given case a direction is given that an accused shall in no case be released from jail unless he undergoes 25 years of imprisonment or, for the matter of that, anything above 14 years, such an order will amount to an embargo on the exercise of the powers under Ss. 432 & 433 Criminal P.C.

Obviously the exercise of powers under Ss. 432 & 433 is not subject to control by the Court and if the exercise of those powers cannot be controlled by the Court, it is difficult to see how the Court can pass an order specifying a particular term of imprisonment which the accused must undergo before he is released from jail, inspite of the fact that after 14 years of imprisonment he was entitled statutorily to invoke the powers of remission under Section 432 (1) of Criminal Procedure Code or the appropriate Government could suo motu exercise its powers to commute the sentence. Undoubtedly the Court would be interfering with the powers of the Executive and what is more important, it will be transgressing the powers vested in the Court with regard to quantum of punishment. Such a direction in also likely to interfere with the exercise of constitutional power of the President under Article 72 and of the Governor under Article 161 of the Constitution.

21. If we apply the above referred ratio laid down by the Bombay High Court to the facts of the present case, it clearly appears to us that by taking away the benefit of remission and comutation as envisaged under Section 432 & 433 of the Criminal Procedure Code, the learned Sessions Judge has encroached upon the powers conferred on the appropriate Government. Not only this, such observations and directions would amount to interfering with the powers of the executive and it would also amount to transgressing the powers vested in the Court with regard to quantum of punishment. Such a direction is not justified on any ground especially when the learned Sessions Judge has not assigned any reason while making such observations.

22. Incidentally, we also come across judgment of the Hon'ble Supreme Court in the case of **Reddy Sampath Kumar V/s. State of A.P., AIR 2005 S.C. 3478** wherein the accused a Doctor made his father-in-law and mother-in-law and their three

minor children believe that they were suffering from AIDS when it was not so and killed them by giving poisonous injection under pretext of giving treatment. Punishment of life imprisonment was imposed on him. While admitting SLP, no notice for enhancement of punishment was issued by the Supreme Court. Considering the gravity of offence, the Court directed that accused shall not get benefit of remission granted on auspicious occasion. The Court observed that the facts of the case shocked the judicial conscience. The gruesome murder was perpetrated in cold blooded, pre-meditated and well organized manner. It calls for deterrent punishment. Such gruesome and cold blooded murder with a view to grab the property is not only delict the law but also have a deleterious effect in civil society. The Court, therefore, held that considering the nature of the crime and manner in which it has been perpetrated, the ends of justice would warrant that the appellant should be in jail in terms of Section 57 of the Indian Penal Code. The Court has further

directed that the appellant shall not get the benefit of any remission either granted by the State or by Government of India on any auspicious occasion. This was the case of a very heinous crime and while denying the remission, the Court has given cogent reasons. Moreover, such powers can be exercised by the Hon'ble Supreme Court under Article 142 of the Constitution of India. Facts of the present case do not warrant to take away such benefit of remission or computation of sentence. The learned Sessions Judge has not assigned any reason. We are, therefore, of the view that he is not empowered or competent to make such observation in the impugned judgment and order and the same is required to be deleted and it is accordingly deleted. The powers conferred on the appropriate Government under Section 432 & 433 of the Code cannot be taken away by making simple observations in the order and denying the benefit which is otherwise conferred by the legislature on the appropriate Government.

23. Subject to the aforesaid directions and observations, we partly allow this appeal and modify the order dated 12.07.2001 passed by the learned Sessions Judge in Sessions Case No. 36 of 2001 by reducing the sentence of R.I. of 10 years to 7 years with fine of Rs.5,000/- and in default thereof, to further undergo S.I. of six months instead of one year. Accordingly, we direct the respondent - State of Gujarat and the Jail Authority to implement this order by releasing the appellant – accused No. 1 – Govindbhai Valabhai Makwana on completion of period of 7 years imprisonment and fine of Rs. 5,000/- and in default thereof, further imprisonment of six months, subject to the usual remissions and computation to which the appellant – accused No. 1 is entitled.

[A. M. KAPADIA, J.]

[K.A. PUJ, J.]

Savariya